



Implementation of the Environmental Advisory Rules Committee's (ARC) Recommendations

Remediation & Redevelopment Division

October 2012

Recommendations R-1: Groundwater/Surface Water Interface (GSI) (COMPLETED)

This recommendation has been completed. The DEQ convened key stakeholders for a Collaborative Stakeholders Initiative (CSI) to address long-standing issues associated with Michigan's cleanup and redevelopment programs. Please go to the "[Michigan's Cleanup and Redevelopment CSI](http://www.michigan.gov/deqland)" Web site (go to www.michigan.gov/deqland, select "Land Cleanup," "Site Investigation and Cleanup," and then "Michigan's Cleanup and Redevelopment CSI") for a detailed explanation of the progress they are making in addressing 13 of the Environmental ARC remediation recommendations.

The CSI GSI Group was responsible for the passage of 2012 PA 190 (Act 190) that amended Section 20120e (MCL 324.20120e) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The legislative changes became effective on June 20, 2012, and create flexibility in allowing for more progressive options in addressing groundwater venting to surface water including mixing zones, alternative monitoring points, and ecological and/or modeling demonstrations.

In addition, the Remediation Division (RD) has provided for additional staff funding in the Water Resources Division (WRD) for GSI assistance and collaboration. This action will provide for a more timely and coordinated review for GSI.

The WRD and CSI GSI Group have finalized a DEQ Policy and Procedure that now allows for the use of U.S. Environmental Protection Agency (USEPA) Method 245.1 to quantify the level of mercury in groundwater that is venting to surface water as part of an evaluation of the GSI pathway. This significantly improves the GSI mercury compliance process. See Recommendation W-19 (below) for more details.

The GSI Technical and Program Support (TAPS) Team will be developing a DEQ Policy and Procedure that assists staff in understanding the legislative changes and the addressing the technical aspects of Act 190 that are used for demonstrating compliance and/or the necessity for taking remedial action.

Senate Bill 1328
Changes to the NREPA to Implement
Recommendations of Environmental ARC and CSI Process

SB 1328 was introduced by Senator Casperson in the Senate Committee on Natural Resources, Environment, and Great Lakes on September 25, 2012. This bill would amend several different parts of Natural Resources Environmental Protection Act (NREPA), 1994 PA 451, including Part 196 (Clean Michigan Initiative Implementation), Part 201 (Environmental Remediation), and Part 213 (Leaking Underground Storage Tanks). This bill is intended to address several of the Environmental ARC recommendations, as well as recommendations resulting from the Collaborative Stakeholders Initiative (CSI). Below is a summary of those Environmental ARC issues that are currently addressed by SB 1328.

Recommendation R-1: Groundwater Surface Water Interface (GSI)

On July 18, 2012, Governor Snyder signed Senate Bill 1090 into law. Senate Bill 1090 contained amendments to Part 201 that implemented Recommendation R-1 and the CSI GSI group's recommendations. Thereafter, the DEQ and regulated community expressed a desire for the amendments in Senate Bill 1090 to be applicable to all corrective actions under Part 213.

Recommendation R-3: Revising Part 201 Cleanup Criteria

On December 14, 2010, Governor Granholm signed legislation that amended Part 201 to, among other things, require the DEQ to evaluate and revise the cleanup criteria within 2 years after the effective date of the amendatory legislation. In addition, Recommendation R-3 proposes to revise the Part 201 cleanup criteria. Further work is necessary to reach consensus on revisions to the cleanup criteria. Accordingly, it has been suggested that the deadline to evaluate and revise the cleanup criteria under Part 201 be extended to December 31, 2013.

Recommendation R-4: Part 201 Rules

Recommendation R-4 proposes to rescind all rules promulgated under Part 201 except the portion of the Part 7 rules related to establishing generic cleanup criteria and screening levels. Concurrent with this process, Recommendation R-4 stated that the DEQ should promulgate a streamlined and efficient rule package that contains only rules that are necessary for program implementation and performance-based rather than prescriptive.

Recommendation R-5: Risk-Based Closures and Site-Specific Criteria

Amend Part 201 to allow for non-numeric criteria.

Recommendation R-9: Due Care for Indoor Air Inhalation at a Property Subject to MIOSHA Standards

Recommendation R-9 proposes to amend Part 201 so that indoor air inhalation risk at workplaces could be addressed at the option of an owner or operator of property by applying MIOSHA and U.S. Environmental Protection Agency (USEPA) workplace exposure criteria for both workers and non-workers in workplaces in lieu of generic Part 201 criteria and without regard to whether or not the extent to which the chemical in question is being used is the workplace.

Storage Tanks

One of the requirements in each of the below recommendations is moving the program to the Department of Licensing and Regulatory Affairs (LARA). On October 3, 2012, Governor Rick Snyder issued [Executive Order 2012-14](#) which transfers the Aboveground Storage Tank Program and the Underground Storage Tank Program from the DEQ to the Bureau of Fire Services, within LARA. The regulation of leaking underground storage tanks will remain with the DEQ and the Bureau of Fire Services will work cooperatively with the DEQ in identifying leaking storage tanks. LARA will be responsible for completing the rule changes identified in recommendations above, as well as rescind the Transportation of Flammable and Combustible Liquids rules per Recommendation R-7c. The provisions of the Executive Order become effective on December 4, 2012.

If the Michigan amendments are removed from the rules stated above, the proposed amendments to the Part 5 – Spillage of Oil and Polluting Materials rules (R 324.2001 – R 324.2009) will need to address storage tank releases. Additional proposed amendments to the Part 5 rules are found in Recommendation W-1.

LARA, therefore, will be responsible for addressing the following five Environmental ARC recommendations pertaining to tank rule revisions:

- **R-7b** – Part 211 – Underground Storage Tank (UST) Rules: amend rules to incorporate federal standards.
- **R-7d** – Compressed Natural Gas (CNG) Vehicular Fuel Systems: rescind Michigan specific amendments.
- **R-7f** – Storage and Handling of Flammable and Combustible Liquids: rescind Michigan specific amendments.
- **R-7g** – Liquefied Petroleum Gas: rescind Michigan specific amendments.
- **R-7h** – Storage and Handling of Gaseous and Liquefied Hydrogen Systems: rescind Michigan specific amendments.

Recommendation R-7a: Underground Storage Tank [UST] Inspection, Delegation and Certification (COMPLETED)

R 29.2071 through R 29.2077 were rescinded, effective September 10, 2012.

Recommendation R-7b: Part 211-UST Regulations (COMPLETED – REFERRED TO LARA)

See above discussion.

Recommendation R-7c: Transportation of Flammable and Combustible Liquids (REFERRED TO LARA)

LARA will initiate rulemaking to rescind R 29.2201 through R 29.2234.

Recommendation R-7d: Compressed Natural Gas (CNG) Vehicular Fuel Systems (COMPLETED – REFERRED TO LARA)

See above discussion.

Recommendation R-7e: Production, Storage, and Handling of Liquefied Natural Gas [LNG] (COMPLETED)

R 29.4671 and R 29.4672 were rescinded, effective August 16, 2012.

Recommendation R-7f: Storage and Handling of Flammable and Combustible Liquids (COMPLETED – REFERRED TO LARA)

See above discussion.

Recommendation R-7g: Liquefied Petroleum Gas (COMPLETED – REFERRED TO LARA)

See above discussion.

Recommendation R-7h: Storage and Handling of Gaseous and Liquefied Hydrogen Systems (COMPLETED – REFERRED TO LARA)

See above discussion.

Recommendation R-12: Relationship between Part 201 and Part 213 (NOT TO BE IMPLEMENTED)

Amendments to Part 213, Leaking Underground Storage Tanks, of the NREPA, became effective on May 1, 2012. The Legislature did not support the combining of Parts 201 and 213 into one statute and one program. Given this, the DEQ will not pursue further action on this item.

Recommendation R-15: Quality Review Team (COMPLETED)

The Remediation Division's (RD) Field Operations Quality Review Team was disbanded in December 2012. It has been replaced with an enhanced District Peer Review Process, wherein the District Supervisor has been given authority to approve all submittals. Ten Technical Support Teams have been enhanced and/ or created within RD to serve as a technical resource to project managers and district staff. A formal [Division Policy and Procedure](#) on both the District Peer Review Team and the Technical Support Teams became effective on September 4, 2012.

Other Rules Rescinded

The Michigan Underground Storage Tank Qualified Consultants and Certified Professionals Rules, R 324.2150 through R 324.21516, were rescinded, effective October 8, 2012.